

FILED

08 JUN 30 PM 1:44

RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

BENJAMIN FRANK BALLARD

Plaintiff,

vs.

ROBERT AYERS JR.
WARDEN OF SAN QUENTIN

Defendant.

CASE NO. C08-2550 MMC

**PRISONER'S
APPLICATION TO PROCEED
IN FORMA PAUPERIS**

I, Benjamin Ballard, declare, under penalty of perjury that I am the plaintiff in the above entitled case and that the information I offer throughout this application is true and correct. I offer this application in support of my request to proceed without being required to prepay the full amount of fees, costs or give security. I state that because of my poverty I am unable to pay the costs of this action or give security, and that I believe that I am entitled to relief.

In support of this application, I provide the following information:

1. Are you presently employed? Yes ☐ No ☒

If your answer is "yes," state both your gross and net salary or wages per month, and give the name and address of your employer:

Gross: N/A Net: N/A

Employer: N/A

N/A

1 If the answer is "no," state the date of last employment and the amount of the gross and net
 2 salary and wages per month which you received. (If you are imprisoned, specify the last
 3 place of employment prior to imprisonment.)

4 N/A

5 N/A

6 N/A

7 2. Have you received, within the past twelve (12) months, any money from any of the
 8 following sources:

9 a. Business, Profession or Yes ____ No X
 10 self employment

11 b. Income from stocks, bonds, Yes ____ No X
 12 or royalties?

13 c. Rent payments? Yes ____ No X

14 d. Pensions, annuities, or Yes ____ No X
 15 life insurance payments?

16 e. Federal or State welfare payments, Yes ____ No X
 17 Social Security or other govern-
 18 ment source?

19 If the answer is "yes" to any of the above, describe each source of money and state the amount
 20 received from each.

21 N/A

22 N/A

23 3. Are you married? Yes ____ No X

24 Spouse's Full Name: N/A

25 Spouse's Place of Employment: N/A

26 Spouse's Monthly Salary, Wages or Income:

27 Gross \$ N/A Net \$ N/A

28 4. a. List amount you contribute to your spouse's support: \$ N/A

1 b. List the persons other than your spouse who are dependent upon you for
 2 support and indicate how much you contribute toward their support. (NOTE:
 3 For minor children, list only their initials and ages. DO NOT INCLUDE
 4 THEIR NAMES.).

5 N/A

6 N/A

7 5. Do you own or are you buying a home? Yes No X

8 Estimated Market Value: \$ N/A Amount of Mortgage: \$ N/A

9 6. Do you own an automobile? Yes No X

10 Make N/A Year N/A Model N/A

11 Is it financed? Yes No X If so, Total due: \$ N/A

12 Monthly Payment: \$ N/A

13 7. Do you have a bank account? Yes X No (Do not include account numbers.)

14 Name(s) and address(es) of bank: CDCR TRUST ACCOUNT - SAN QUENTIN

15 STATE PRISON 1 Main St. San Quentin, CA. 94964.

16 Present balance(s): \$ See attached Certification of Funds.

17 Do you own any cash? Yes No X Amount: \$ N/A

18 Do you have any other assets? (If "yes," provide a description of each asset and its estimated
 19 market value.) Yes No X

20 N/A

21 8. What are your monthly expenses?

22 Rent: \$ N/A Utilities: N/A

23 Food: \$ N/A Clothing: N/A

24 Charge Accounts:

25 Name of Account Monthly Payment Total Owed on This Acct.

26 N/A \$ N/A \$ N/A

27 N/A \$ N/A \$ N/A

28 N/A \$ N/A \$ N/A

1 9. Do you have any other debts? (List current obligations, indicating amounts and to
2 whom they are payable. Do not include account numbers.)

3 N/A

4 N/A

5 10. Does the complaint which you are seeking to file raise claims that have been presented
6 in other lawsuits? Yes No X

7 Please list the case name(s) and number(s) of the prior lawsuit(s), and the name of the court in
8 which they were filed.

9 N/A

10 N/A

11 I consent to prison officials withdrawing from my trust account and paying to the court
12 the initial partial filing fee and all installment payments required by the court.

13 I declare under the penalty of perjury that the foregoing is true and correct and
14 understand that a false statement herein may result in the dismissal of my claims.

15
16 June 13, 2008.

17 DATE

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19
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27
28

SIGNATURE OF APPLICANT

1 UNITED STATES DISTRICT COURT
2 FOR THE NORTHERN DISTRICT OF CALIFORNIA

3 **INSTRUCTIONS FOR PRISONER'S**
4 **IN FORMA PAUPERIS APPLICATION**

5 You must submit to the court a completed Prisoner's In Forma Pauperis Application if
6 you are unable to pay the entire filing fee at the time you file your complaint or petition. Your
7 application must include copies of the prisoner trust account statement showing transactions
8 for the last six months and a certificate of funds in prisoner's account, signed by an authorized
9 officer of the institution.

10 **A. Non-habeas Civil Actions**

11 Effective April 9, 2006, the filing fee for any civil action other than a habeas is
12 \$350.00. Even if you are granted leave to proceed in forma pauperis, you must still pay the
13 full amount of the court's filing fee, but the fee will be paid in several installments. 28 U.S.C.
14 § 1915.

15 You must pay an initial partial filing fee of 20 percent of the greater of (a) the average
16 monthly deposits to your account for the 6-month period immediately before the complaint
17 was filed or (b) the average monthly balance in your account for the 6-month period
18 immediately before the complaint was filed. The court will use the information provided on
19 the certificate of funds and the trust account statement to determine the filing fee immediately
20 due and will send instructions to you and the prison trust account office for payment if in
21 forma pauperis status is granted.

22 After the initial partial filing fee is paid, your prison's trust account office will forward
23 to the court each month 20 percent of the most recent month's income to your prison trust
24 account, to the extent the account balance exceeds ten dollars (\$10.00). Monthly payments
25 will be required until the full filing fee is paid. If you have no funds over ten dollars (\$10.00)
26 in your account, you will not be required to pay part of the filing fee that month.

27 If your application to proceed in forma pauperis is granted, you will be liable for
28 the full \$350.00 filing fee even if your civil action is dismissed. That means the court will
continue to collect payments until the entire filing fee is paid. However, if you do not
submit this completed application the action will be dismissed without prejudice and the
filing fee will not be collected.

B. Habeas Actions

The filing fee for a habeas action is \$5.00. If you are granted leave to proceed in
forma pauperis you will not be required to pay any portion of this fee. If you are not granted
leave to proceed in forma pauperis you must pay the fee in one payment and not in
installments. If you use a habeas form to file a non-habeas civil action, you will be
required to pay the \$350.00 filing fee applicable to all non-habeas civil actions.

Case Number: C-08-2550 MMC

CERTIFICATE OF FUNDS

IN


PRISONER'S ACCOUNT

004047

I certify that attached hereto is a true and correct copy of the prisoner's trust account statement showing transactions of BENJAMIN BALLARD for the last six months
[prisoner name]
SAN QUENTIN STATE PRISON where (s)he is confined.
[name of institution]

I further certify that the average deposits each month to this prisoner's account for the most recent 6-month period were \$ 181.00 and the average balance in the prisoner's account each month for the most recent 6-month period was \$ 181.00.

Dated: 6/24/08


[Authorized officer of the institution]

DECLARATION OF SERVICE BY MAIL

I, Emil Joseph Von Ekdahl III., the undersigned, declare:
Printed Name of Declarant

I am over the age of 18 years, a citizen of the United States of America, and am not a party to the cause within. My residence address is:

CDC No. C-79199 Housing 4N64-U.
San Quentin State Prison
San Quentin, CA 94974

On June 13, 2008, I served the following document(s):
Month/Day Year


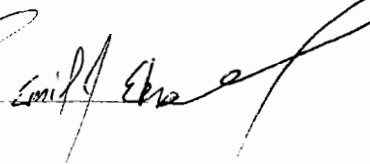
One (1) MOTION FOR APPOINTMENT OF COUNSEL - Case No. C-08-2550

One (1) MOTION FOR IN FORMA PAUPERIS APPLICATION, and certification
of funds with attached trust account statement - filed and
attached by AUTHORIZED OFFICER OF SAN QUENTIN INSTITUTION.

on the parties and at the addresses described below by placing the pleadings in a sealed envelope, with postage fully prepaid, and presented said item(s) to Corrections Department staff for mailing in the United States Mail as per the rules and regulations governing outgoing legal mail at San Quentin State Prison.

Office of the Clerk for the
U.S. District Court, Northern
District of California
450 Golden Gate Avenue
San Francisco, CA. 94102.

I swear under penalty of perjury that the foregoing is true of my own personal knowledge. Executed on this 13 day of June, 2008, at
San Quentin, CA, County of Marin.


Signature of declarant 

DECLARATION OF SERVICE BY MAIL

I, Emil Joseph Von Ekdahl III., the undersigned, declare:
Printed Name of Declarant

I am over the age of 18 years, a citizen of the United States of America, and am not a party to the cause within. My residence address is:

CDC No. C-79199 Housing 4N64-U.
San Quentin State Prison
San Quentin, CA 94974

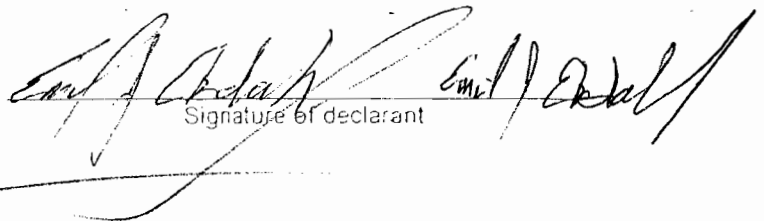
On June 13, 2008, I served the following document(s):
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CALIFORNIA ATTORNEY GENERAL
455 Golden Gate Avenue
Suite 11000
San Francisco, CA. 94102-7004.

I swear under penalty of perjury that the foregoing is true of my own personal knowledge. Executed on this 13 day of June, 2008, at San Quentin, CA, County of Marin.


Signature of declarant

REPORT ID: TS3030 .701

REPORT DATE: 06/24/
PAGE NO:CALIFORNIA DEPARTMENT OF CORRECTIONS
SAN QUENTIN PRISON
INMATE TRUST ACCOUNTING SYSTEM
INMATE TRUST ACCOUNT STATEMENT

FOR THE PERIOD: JAN. 24, 2007 THRU JUN. 24, 2008

ACCOUNT NUMBER : D04047 BED/CELL NUMBER: N 2 00000000096L
ACCOUNT NAME : BALLARD, BENJAMIN ACCOUNT TYPE: I
PRIVILEGE GROUP: A

TRUST ACCOUNT ACTIVITY

DATE	TRAN CODE	DESCRIPTION	COMMENT	CHECK NUM	DEPOSITS	WITHDRAWALS	BALANCE
01/24/2007		BEGINNING BALANCE					109.3
02/06	D554	INMATE PAYROL	2803/JAN07		10.13		119.5
02/13	FR01	CANTEEN RETUR	602877			0.45-	119.9
02/15	W476	DONATION-PROT	2918IMPACT			1.00	118.9
02/15	W476	DONATION-PROT	2918IMPACT			3.00	115.9
02/21	W449	DONATION-ARTS	2955FDSALE			21.00	94.9
02/23	D300	CASH DEPOSIT	2998MAILRM		60.00		154.9
03/06	D554	INMATE PAYROL	3077/FEB07		10.80		165.7
03/12	FC01	DRAW-FAC 1	603177M2ND			52.50	113.2
04/09	D554	INMATE PAYROL	3470/MAR07		7.20		120.4
04/17	FC01	DRAW-FAC 1	3575/MAIN2			100.00	20.4
05/04	D554	INMATE PAYROL	3755/APR07		27.52		47.9
05/04	W502	POSTAGE CHARG	3768POSTAG			6.22	41.7
05/07	D340	EFT DEPOSIT	3776/J-PAY		50.00		91.7
05/15	FC01	DRAW-FAC 1	3883/M2ND			57.50	34.2
05/24	W502	POSTAGE CHARG	4017POSTAG			5.06	29.1
06/01	D340	EFT DEPOSIT	4093/J-PAY		100.00		129.1
06/06	D554	INMATE PAYROL	4140/MAY07		24.64		153.8
06/11	FC01	DRAW-FAC 1	604243M2ND			125.00	28.8
06/11	FR01	CANTEEN RETUR	604250			0.05-	28.8
07/05	D340	EFT DEPOSIT	0030/J-PAY		100.00		128.8
07/06	D554	INMATE PAYROL	0048JUNE07		28.80		157.6
07/06	W512	LEGAL POSTAGE	0041LPOSTA			4.60	153.0
07/06	W512	LEGAL POSTAGE	0041LPOSTA			1.65	151.4
07/16	FR01	CANTEEN RETUR	700168			0.10-	151.5
07/16	FC01	DRAW-FAC 1	0177/M1ST			128.00	23.5
08/04	D554	INMATE PAYROL	0513JULY07		27.84		51.3
08/06	W536	COPAY CHARGE	0535/COPAY			5.00	46.3
08/08	W512	LEGAL POSTAGE	0579LPOSTA			1.98	44.3
08/08	W512	LEGAL POSTAGE	0579LPOSTA			10.00	34.3
08/13	FR01	CANTEEN RETUR	700608			0.26-	34.6
08/13	FC01	DRAW-FAC 1	0620/M2ND			27.50	7.1
08/27	D340	EFT DEPOSIT	0786/J-PAY		100.00		107.1
09/07	D554	INMATE PAYROL	0901/AUG07		22.40		129.5
09/17	FC01	DRAW-FAC 1	1088/MAIN2			119.50	10.0
09/20	W512	LEGAL POSTAGE	1147LPOST			4.60	5.4
10/05	D554	INMATE PAYROL	1368SEPT07		24.32		29.7
10/15	FC01	DRAW-FAC 1	1498/MAIN2			15.50	14.2
11/02	D340	EFT DEPOSIT	1777/J-PAY		50.00		64.2
11/06	D554	INMATE PAYROL	1822102007		24.32		88.5
11/13	FC01	DRAW-FAC 1	1944/M2&3			87.50	1.0
12/05	D401	HANDICRAFT SA	2197/HOBBY		171.55		172.6
12/06	D554	INMATE PAYROL	2253/NOV07		25.92		198.5

REPORT ID: TS3030 .701

REPORT DATE: 06/24
PAGE NO:SAN QUENTIN PRISON
INMATE TRUST ACCOUNT STATEMENT

FOR THE PERIOD: JAN. 24, 2007 THRU JUN. 24, 2008

ACCT:	DO4047	ACCT NAME:	BALLARD, BENJAMIN	ACCT TYPE:	I		
DATE	TRAN CODE	DESCRIPTION	COMMENT	CHECK NUM	DEPOSITS	WITHDRAWALS	BALANCE
12/17	FC01	DRAW-FAC 1	2407/M2ND			17.50	181.
12/24	W502	POSTAGE CHARG	2540/POST			13.30	167.
		ACTIVITY FOR 2008					
01/08	D554	INMATE PAYROL	2662/DEC07		23.04		190.
01/11	W700	IWF SP SURCHA	2740/H4804			9.36	181.
01/11	W300	HANDICRAFT PU	2740/H4804	187070700		112.79	68.
01/14	FC01	DRAW-FAC 1	2773/MAIN2			27.50	41.
02/06	D554	INMATE PAYROL	3038JAN08		33.28		74.
02/11	FR01	CANTEEN RETUR	703110			0.56-	74.
02/11	D200	CASH DEPOSIT-	3083REFUND		7.91		82.
02/11	D340	EFT DEPOSIT	3114/J-PAY		100.00		182.
02/11	FC01	DRAW-FAC 1	3124/MAIN2			46.50	136.
03/07	D554	INMATE PAYROL	3454/FEB08		33.28		169.
03/10	FC01	DRAW-FAC 1	3484/M1ST			130.00	39.
03/26	D300	CASH DEPOSIT	3766MAILRM		25.00		64.
04/07	D554	INMATE PAYROL	3904/MAR08		35.20		99.
04/14	FR01	CANTEEN RETUR	704017			0.05-	99.
04/14	FC01	DRAW-FAC 1	4024/M2ND			55.50	44.
05/02	D340	EFT DEPOSIT	4306/JPAY		100.00		144.
05/05	D554	INMATE PAYROL	4306APRLO8		40.32		184.
05/09	W502	POSTAGE CHARG	4400/POST			5.30	179.
05/12	FC01	DRAW-FAC 1	4442/MAIN2			125.50	53.
06/02	D340	EFT DEPOSIT	4694/JPAY		100.00		153.
06/05	D554	INMATE PAYROL	4728/MAY08		26.88		180.
06/05	W512	LEGAL POSTAGE	4757/LPOST			5.20	175.
06/05	W512	LEGAL POSTAGE	4757/LPOST			5.20	170.
06/10	FR01	CANTEEN RETUR	704792			0.25-	170.
06/10	FC01	DRAW-FAC 1	4794/MAIN2			125.50	45.
06/17	W415	CASH WITHDRAW	4919FILFEE 187072897			5.00	40.

TRUST ACCOUNT SUMMARY

BEGINNING BALANCE	TOTAL DEPOSITS	TOTAL WITHDRAWALS	CURRENT BALANCE	HOLDS BALANCE	TRANSACTION TO BE POST
109.37	1,390.35	1,459.54	40.18	0.00	0.

CURRENT
AVAILABLE
BALANCE

40.

THE WITHIN INSTRUMENT IS A CORRECT
COPY OF THE TRUST ACCOUNT MAINTAINED
BY THIS OFFICE.
ATTEST: 6/24/08
CALIFORNIA DEPARTMENT OF CORRECTIONS
BY: [Signature]
TRUST OFFICE

Benjamin Frank Ballard.
D-04047 / 2N96-U.
San Quentin, CA. 94974.

Office of the Clerk for the
U.S. District Court, Northern
District of California
450 Golden Gate Avenue
San Francisco, CA. 94102.



RECEIVED

MMMC